

**08 C 195**

**JUDGE SHADUR  
MAGISTRATE JUDGE DENLOW**

**EXHIBIT A**



ROD R. BLAGOJEVICH  
Governor

**Illinois Department of Financial and Professional Regulation**  
**Division of Insurance**

DEAN MARTINEZ  
Secretary

MICHAEL T. McRAITH  
Director  
Division of Insurance

December 18, 2007

**RECEIVED**

ING USA Annuity and Life Insurance Company  
5780 Powers Ferry Road, NW  
Atlanta, Georgia 30327-4390

DEC 26 2007

**LEGAL DEPT**

Re: Case Number: 2007 L 013776

Gentlemen:

Enclosed please find copy of Summons and Verified Complaint For Declaratory Judgment, Injunction, Monitory Damages and Other Relief served on me as your agent for service of process on December 14<sup>th</sup> at 10:30 a.m. at my Chicago Office in the case of Gerald S. Adelman, vs. your company.

Sincerely,

*Michael T. McRaith*

Michael T. McRaith  
Director

MTM:EMC:msc  
Encl.

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

2120 - Served 2221 - Not Served  
 2220 - Not Served 2321 - Served By Mail  
 2320 - Served By Mail 2421 - Served By Publication  
 2420 - Served By Publication  
 SUMMONS ALIAS - SUMMONS

CCG N001-10M-1-07-05 ( )

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
 COUNTY DEPARTMENT, LAW DIVISION

**RECEIVED**

STATE OF ILLINOIS

2007L013776  
CALENDAR/ROOM V  
TIME 00:00

Breach of Contract

(Name all parties)

GERALD S. ADELMAN

DEC 14 2007

10:30 AM

DEPT. OF INSURANCE  
CHICAGO, ILLINOIS

No. \_\_\_\_\_

ING USA ANNUITY AND LIFE INSURANCE COMPANY

Please Serve: Director of Insurance  
100 W. Randolph  
Suite 9-301  
Chicago, Illinois

SUMMONS

To each Defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the Office of the Clerk of this Court at the following location:

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Richard J. Daley Center, 50 W. Washington, Room 801        | Chicago, Illinois 60602   |   |
| <input type="checkbox"/> District 2 - Skokie<br>5600 Old Orchard Rd.<br>Skokie, IL 60077       | <input type="checkbox"/> District 3 - Rolling Meadows<br>2121 Euclid<br>Rolling Meadows, IL 60008 | <input type="checkbox"/> District 4 - Maywood<br>1500 Maybrook Ave.<br>Maywood, IL 60153          |
| <input type="checkbox"/> District 5 - Bridgeview<br>10220 S. 76th Ave.<br>Bridgeview, IL 60455 | <input type="checkbox"/> District 6 - Markham<br>16501 S. Kedzie Pkwy.<br>Markham, IL 60426       | <input type="checkbox"/> Child Support<br>28 North Clark St., Room 200<br>Chicago, Illinois 60602 |

You must file within 30 days after service of this Summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This Summons may not be served later than 30 days after its date.

DEC 10 2007

WITNESS, \_\_\_\_\_

Atty. No.: 13927

Name: Brandwein &amp; Smolin

Atty. for: Plaintiff

Address: 20 South Clark Street, Suite 410

City/State/Zip: Chicago, Illinois 60603

Telephone: (312) 853-0008

Service by Facsimile Transmission will be accepted at: \_\_\_\_\_

Clerk of Court

Date of service: \_\_\_\_\_  
(To be inserted by officer on copy left with defendant  
or other person)

(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - LAW DIVISION

GERALD S. ADELMAN,  
Plaintiff,  
-vs-  
ING USA ANNUITY AND LIFE INSURANCE  
COMPANY,  
Defendant.

Case No:

2007L013776  
CALENDAR/ROOM V  
TIME 00:00  
Breach of Contract

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT,  
INJUNCTION, MONATORY DAMAGES AND OTHER RELIEF**

NOW COMES Plaintiff GERALD S. ADELMAN by his attorneys *Brandwein & Smolin*, and complaining against ING USA ANNUITY AND LIFE INSURANCE COMPANY states as follows:

COUNT I

1. That Defendant is an insurance company duly licensed to sell policies of life insurance in the State of Illinois and at all relevant times was and is doing business in Cook County, Illinois.
  2. That in February, 2007, Plaintiff purchased for good and valuable consideration a policy of life insurance originally issued to one Sara Ann Smith by Equitable of Iowa Company bearing policy number UF00007634 and in the face amount of five hundred thousand dollars (\$500,000.00) hereinafter referred to as the subject policy.
  3. That Defendant has assumed all obligations under the subject policy.
  4. That Plaintiff does not possess and at the present is unable to obtain a copy of the subject policy.
  5. That the subject policy of insurance set forth above, Defendant is obligated to provide the insured with the following:

- a. Annual reports stating monies paid in, interest earned, loans, interest expense and costs of insurance;
- b. Illustrations setting forth projected and guaranteed values of insurance; and
- c. Accurate information regarding restorations of in the event of any lapses in the policy.

6. That Defendant in breach of the subject policy, failed to provide the information or failed to provide accurate information set forth in paragraph five (5) above from the calendar year of 1993 up to the calendar year 2001.

7. That prior to the breach set forth in paragraph six (6) above, the original insured of the subject policy had paid sufficient premiums to keep the policy in full force and effect under the terms of the subject policy.

8. That demand has been made of Defendant for the information or accurate information set forth in paragraph five (5) above. To date, all demands have been denied.

9. That since the subject policy was in effect for at least two (2) years, Defendant under the terms of the policy was barred from contesting it.

10. That on or about February 11, 2001, Sara Ann Smith died.

11. That as a result of Defendant's failure to provide the information set forth in paragraph five (5) above, the policy set forth in paragraph two (2) above have lapsed through no fault of Plaintiff.

12. That disputes have arisen between the parties which require a declaration of the Court.

13. That Plaintiff does not have an adequate remedy at law since money damages could not purchase new policies where the insurer was barred from contesting the policy.

WHEREFORE the Plaintiff GERALD S. ADELMAN prays for the following relief:

A. A permanent injunction ordering Defendant ING USA ANNUITY AND LIFE INSURANCE to provide Plaintiff with the following:

1. Annual report stating monies paid, interest earned, loans and costs of insurance for the policy set forth in paragraph two (2) above for each year commencing for the calendar year;

2. Illustrations setting forth projected and guaranteed values of insurance; and
3. A declaration of the Court that the policy set forth in paragraph two (2) was wrongfully terminated and reinstating same.
4. Further other relief that the Court deems just

**COUNT II**

1. That Defendant is an insurance company duly licensed to sell policies of life insurance in the State of Illinois and at all relevant times was and is doing business in Cook County, Illinois.

2. That in February, 2007, Plaintiff purchased for good and valuable consideration a policy of life insurance originally issued to one Sara Ann Smith by Equitable of Iowa Company bearing policy number UF00007634 and in the face amount of five hundred thousand dollars (\$500,000.00) hereinafter referred to as the subject policy.

3. That Defendant has assumed all obligations under the subject policy.

4. That Plaintiff does not possess and at the present is unable to obtain a copy of the subject policy.

5. That the subject policy contained the following contract terms identical in effect to the following:

**MONTHLY DEDUCTION DAY**- is the same day of the month, in each Policy Month, as the day of the month in the Policy Date. On each Monthly Deduction Day, the cost of the insurance under this policy is deducted from the policy's Gross Cash Value.

**INCONTESTABILITY**- We cannot contest this policy after it has been in force during the life of each Insured for two years from the Policy Date or, if reinstated, or two years from the date of reinstatement.

**ASSIGNMENT**- You may Assign this Policy. We are bound by an Assignment only if We receive a duplicate of the original Assignment as Our Administrative Office.

**USE OF CASH SURRENDER VALUE TO CONTINUE INSURANCE**- In the event payment of Planned Periodic Premiums are discontinued, insurance coverage under this policy and any benefits provided by Rider will be continued in force while the Cash Surrender Value is sufficient to cover the monthly deduction. No Rider will remain in force beyond its termination date.

6. That on or about February 11, 2001, Sara Ann Smith died.

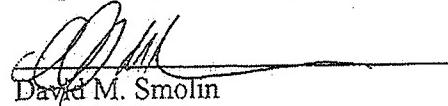
7. In breach of the terms of the policy relating to use of each surrender value to continue insurance, Defendant terminated the subject policy although each surrender value was sufficient to cover the monthly deductions through date of death.

8. That Plaintiff has demanded payment of the death benefit of the subject policy.

9. That Defendant has denied Plaintiff's demand for payment of death benefits stating the subject policy lapsed on or about February 1, 1999.

WHEREFORE, Plaintiff Gerald S. Adelman prays for judgment in his favor and against Defendant ING USA Annuity and Life Insurance Company in the amount of five hundred thousand dollars (\$500,000.00).

Respectfully Submitted,



David M. Smolin

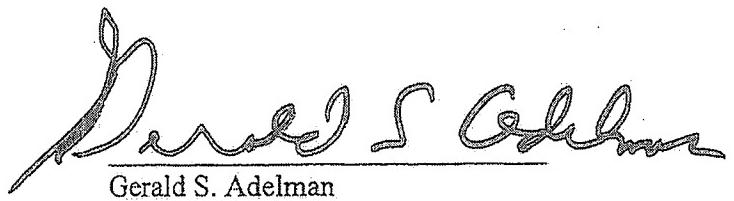
Attorney No.: 13927  
BRANDWEIN & SMOLIN  
20 South Clark Street, Suite 410  
Chicago, Illinois 60603  
(312) 853-0008

VERIFICATION

Under the penalties of perjury and as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Verified Complaint For Declaratory Judgment, Injunction, Monetary Damages, and Other Relief are true and correct, except as to matters stated to be on information and belief and as to such matters the undersigned believes the same to be true.

DEC - 7 2007

Date



Gerald S. Adelman

SUBSCRIBED and SWORN to before me this  
7 day of December, 2007.



NOTARY PUBLIC

